

IN RE: John C. Lane)
Map117-01-0, Parcel144.00) Davidson County
Residential Property)
Tax Year 2006)

The Davidson County Assessor of Property ("Assessor") valued the subject property for tax purposes as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$360,000	\$1,109,000	\$1,469,000	\$367,250

An Appeal has been filed on behalf of the property owner with the State Board of Equalization on July 31, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on October 11, 2006, at the State Department of Revenue Office; present at the hearing were John C. Lane, the taxpayer, and Jason Poling was present for the Metro. Property Assessor.

Findings of Fact and Conclusions of Law

The subject property consists of a single family residence/ vacant lot located at 3609 Woodlawn Drive, in Nashville, Tennessee.

The initial issue is whether or not the State Board of Equalization has the jurisdiction to hear the taxpayer's appeal. The law in Tennessee generally requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. T.C.A. §§ 67-5-1401 & 67-5-1412 (b). A direct appeal to the State Board of Equalization is only permitted if the assessor does not timely notify the taxpayer of a change of assessment prior to the meeting of the County Board. T.C.A. §§ 67-5-508(b) (2); 67-5-1412 (e). Nevertheless, the legislature has also provided that:

The taxpayer shall have a right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such **reasonable cause**, the [state] board shall accept such appeal from the taxpayer up to March 1st of the year subsequent to the year in which the assessment is made (*emphasis added*).

In analyzing and reviewing T.C.A. § 67-5-1412 (e), the Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of 'reasonable cause' provisions to waive these requirements except where the failure to meet them is **due to illness or other circumstances beyond the taxpayer's control**. (*Emphasis added*), *Associated Pipeline Contractors Inc.*, (Williamson County Tax Year 1992, Assessment Appeals Commission, Aug. 11, 1994). See also *John Orovets*, (Cheatham County, Tax Year 1991, Assessment Appeals Commission, Dec. 3, 1993).

Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond his control prevented him from appealing to the Davidson County Board of Equalization. It is the taxpayer's burden to prove that they are entitled to the requested relief.

In this case, the taxpayer, Mr. Lane, did not appeal to the Davidson County Board of Equalization because of problems that he was having with the Post Office in delivering the mail. He testified that because the house was not yet complete at the time the Notice of Appraised Value, Classification and Assessed Value would have been sent in May of 2006, he did not know of the change (increase) until the actual tax bill was received and by that time it was too late to follow the procedure.

Based on the uncontrived testimony, the Administrative Judge finds that reasonable cause does exist justifying the failure to first appeal to the Davidson County Board of Equalization and thus the State Board of Equalization does have jurisdiction to hear this appeal.

Now as to the issue of value: Tennessee Code Annotated § 67-5-601(a) provides (in relevant part) that "[t]he value of all property shall be ascertained from the evidence of its **sound, intrinsic and immediate value**, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values...."

In this case the subject property is a single family residence that as of January 1, 2006 was undergoing a major renovation.¹ Since Mr. Lane seeks to change the present valuation of the subject property, he has the burden of proof in this administrative proceeding. State Board Rule 0600-1-.11(1).

The homeowner/taxpayer produced documentation that proved by clear and convincing evidence that the subject property was not habitable until October 6, 2006, the appropriate date in the administrative judge's opinion for a pro-rated assessment notice to be sent.

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at \$ 737,800.²

¹ The exhibits show that the home had been under renovation since 2004 and that field reviews were conducted in March of 2006 and again in August 2006.

² The figures were taken from the official property record card for 2005, Davidson County's re-appraisal year.

ORDER

It is, therefore, ORDERED that the following values shall be adopted for tax year 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$360,000	\$377,800	\$737,800	\$184,500

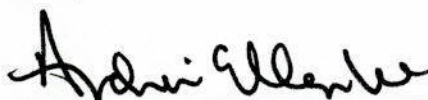
It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 26th day of October, 2006.



ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. John C. Lane
Jo Ann North, Assessor of Property